

Message

From: Westlake, Kenneth [westlake.kenneth@epa.gov]
Sent: 11/13/2015 5:28:51 PM
To: Kenney, Thomas [kenney.thomas@epa.gov]; Wester, Barbara [wester.barbara@epa.gov]; Sedlacek, Michael [Sedlacek.Michael@epa.gov]
CC: Leff, Karin [Leff.Karin@epa.gov]; Suriano, Elaine [Suriano.Elaine@epa.gov]; Bromm, Susan [Bromm.Susan@epa.gov]
Subject: FW: Request for referral to the Council on Environmental Quality on EIS No. 20150317, NorthMet Mining Project and Land Exchange, by the Fond du Lac Band of Lake Superior Chippewa
Attachments: November 13 2015 request to EPA for a CEQ referral.pdf; Exhibits to Fond du Lac Band Nov 13 2015 Request for Referral to CEQ.pdf

This request for CEQ referral was received today from outside counsel for the Fond du Lac Band of Chippewa.

From: Anne D. Noto [mailto:ANOTO@SONOSKY.COM]
Sent: Friday, November 13, 2015 10:38 AM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>; Hedman, Susan <hedman.susan@epa.gov>
Cc: 'chair@ceq.eop.gov' <chair@ceq.eop.gov>; 'etarquinio@ceq.eop.gov' <etarquinio@ceq.eop.gov>; Chase, JoAnn <Chase.JoAnn@epa.gov>; Walts, Alan <walts.alan@epa.gov>; Westlake, Kenneth <westlake.kenneth@epa.gov>; 'Lisa.fay@state.mn.us' <Lisa.fay@state.mn.us>; 'Douglas.w.bruner@usace.army.mil' <Douglas.w.bruner@usace.army.mil>; 'mjimenez@fs.fed.us' <mjimenez@fs.fed.us>; 'mwatkins@grandportage.com' <mwatkins@grandportage.com>; 'blatady@boiseforte-NSN.gov' <blatady@boiseforte-NSN.gov>; 'jcoleman@glifwc.org' <jcoleman@glifwc.org>; 'esteban@glifwc.org' <esteban@glifwc.org>; Dvogt@1854treatyauthority.org; nancyschuldt@fdlrez.com; 'Sean Copeland' <SeanCopeland@FDLREZ.COM>
Subject: Request for referral to the Council on Environmental Quality on EIS No. 20150317, NorthMet Mining Project and Land Exchange, by the Fond du Lac Band of Lake Superior Chippewa

On behalf of the Fond du Lac Band of Lake Superior Chippewa, I attach the Band's request that EPA make a predecision referral to the Council on Environmental Quality of unresolved disagreements over the environmental impacts of the proposed NorthMet Mining Project and Land Exchange, pursuant to 40 C.F.R. Pt 1504. The project involves the application by PolyMet Mine, Inc. to develop and operate a copper sulfide ore open pit mine and processing plant on lands in northeastern Minnesota within the Superior National Forest.

As described in detail in the attached letter, a referral to the CEQ is necessary and appropriate as there is a fundamental disagreement about the groundwater hydrology and the impact of the proposed mine on surface and groundwater resources. The disagreement on the hydrologic characterization of the site affects two major watersheds – the Lake Superior Basin and Rainy River Basin, which include important protected natural resources, among which is the Boundary Waters Canoe Area Wilderness. The disagreement on hydrologic characterization of the site directly affects the mine's potential impacts on ground and surface water quality, water treatment needs both during the mine operations and post-closure, mercury loading, wetlands, natural resource habitat, cultural resources, and cumulative effects. The disagreement calls into question many of the conclusions contained in the Final Environmental Impact State that was recently released, formal notice of which was published in the Federal Register on November 13, 2015.

The Fond du Lac Band, as a cooperating agency in the environmental review, has made timely and concerted efforts to resolve this disagreement, but those efforts have not been successful.

To ensure full consideration of the request for a referral, and because a the deadline for making a referral is expected to be December 8, 2015, the Band asks that EPA request that the Co-lead Agencies consent to an extension of time in which a referral to the CEQ may be made.

Thank you for your careful consideration regarding this vitally important matter.

Anne D. Noto
Sonosky, Chambers, Sachse, Endreson & Perry, LLP
1425 K Street, N.W., Suite 600
Washington, DC 20005
Telephone: (202) 682-0240
Facsimile: (202) 682-0249